

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

Endangered and Threatened Wildlife and Plants; Reproposal of Critical Habitat for Three Southeastern Fishes

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Reproposal of Critical Habitat for three southeastern fishes.

SUMMARY: The Service reproposes the Critical Habitat for the spring pygmy sunfish (*Elassoma* sp.), pygmy sculpin (*Cottus pygmaeus*) and the Barrens topminnow (*Fundulus* sp.). Endangered status and Critical Habitat were originally proposed for the spring pygmy sunfish and pygmy sculpin on November 29, 1977 (42 FR 60765-68), and for the Barrens topminnow on December 30, 1977 (42 FR 65209-12). The Critical Habitat portions of these proposals were withdrawn by the Service on March 6, 1979 (44 FR 12382-84) because of the procedural and substantive changes made by the Endangered Species Act Amendments of 1978. This proposed rule conforms to these requirements.

DATE: Comments on this proposed rule must be submitted by September 28, 1979. Public meetings will be held as follows:

Oxford, Alabama—Tuesday, August 28, 1979, 1-5 p.m. (Pygmy sculpin).

Athens, Alabama—Wednesday, August 29, 1979, 1-5 p.m. (Spring-pygmy sunfish).

Manchester, Tennessee—Thursday, August 30, 1979, 1-5 p.m. (Barrens topminnow).

ADDRESSES: Interested persons or organizations are requested to submit comments to Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials relating to this rulemaking are available for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia 22201.

Public meeting locations:

Oxford, Alabama—Holiday Inn, Oxford Room.

Athens, Alabama—Welcome Inn, Highway 31 South.

Manchester, Tennessee—Duck River Electric Corp. Building, the Conference Room, 113 E. Fort Street.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and

Wildlife Service, Washington, D.C. 20240 (703/235-2771).

SUPPLEMENTARY INFORMATION:**Background**

The spring pygmy sunfish and pygmy sculpin were proposed as Endangered with Critical Habitat on November 29, 1977, and the Barrens topminnow was proposed as Endangered with Critical Habitat on December 30, 1977. Before final action could be taken on the proposals, however, Congress passed the Endangered Species Act Amendments of 1978, which substantially modified the procedures the Service must follow when designating Critical Habitat. The present rulemaking will bring the Critical Habitat proposals into conformity with the Amendments.

Summary of Factors Affecting the Species

Pygmy Sculpin. The highly specialized pygmy sculpin's known habitat is Coldwater Spring in Alabama, its immediate run, and approximately 150 years of Coldwater Creek below the spring. The spring is located west of Anniston, Calhoun County, Alabama. Coldwater Spring is used as a water supply for the city of Anniston, which presently has a pumping capacity of 22.5 million gallons per day. The spring's average flow is 32 million gallons per day with a range from 20 to 34 million gallons per day.

The threats to the pygmy sculpin include aquatic vegetation control in the spring and increased pumping. The young and adult sculpins have been observed in large numbers in the submerged aquatic vegetation. Elimination of the vegetation by chemical or biological methods would adversely affect the sculpin. Increased water demands in the future could force total utilization of the Coldwater Spring flow.

In the past, the pygmy sculpin in Coldwater Creek was adversely affected by the toxic waste from the U.S. Army's Anniston Ordnance Depot. In 1976 a treatment program was initiated to comply with Environmental Protection Agency water quality standards to detoxify chemical waste flowing into Dry and Coldwater Creeks from the Ordnance Depot. It is too early to determine the success of this abatement program and its impact on the pygmy sculpin.

Spring Pygmy Sunfish: The spring pygmy sunfish is presently known only from Beaverdam (Moss) Spring, Limestone County, Alabama. It was thought to be extinct until rediscovered

in Beaverdam Spring in 1973 by Dr. David Etnier. Its habitat is dense, submerged aquatic vegetation in water six inches to two feet in depth.

The threats to the spring pygmy sunfish are pollution and siltation of Beaverdam Spring. Cultivation adjacent to the spring is contributing heavy silt loads, especially during periods of high runoff. In recent years pollution from insecticides has caused heavy fish kills in the area near Beaverdam Spring. Habitat alteration due to siltation and pollution apparently has led to the extirpation of the spring pygmy sunfish in two other springs.

Barrens Topminnow: The undescribed Barrens topminnow is believed to be most closely related to the extinct whilene topminnow (*Fundulus albolineatus*) known only from Big Spring and its immediate run in Huntsville, Alabama. The Barrens topminnow inhabits springs and spring-fed creeks in the headwaters of the Duck River and west fork of Hickory Creek, and headwaters of the Collins River in Coffee County, Tennessee.

The Barrens topminnow's limited habitat is threatened by various local alterations of springs and streams. Several localities where the Barrens topminnow was taken in the late 1930's no longer support populations due to the destruction of habitat caused by channel alterations and drainage. There are presently three known localities for this species, all in Coffee County, Tennessee.

All three of the above species are highly specialized and are found only in small numbers; they also have extremely limited ranges and are highly susceptible to changes in their habitat.

Critical Habitat

The Act defines "critical habitat" as (i) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of section 4 of this Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by the species at the time it is listed in accordance with the provisions of section 4 of this Act, upon a determination by the Secretary that such areas are essential for the conservation of the species.

The Service believes that certain springs and streams within the geographical area occupied by the species under consideration should be designated as Critical Habitat. Each of

these species has an extremely limited range and is highly susceptible to changes in its habitat. Since even minor physical or chemical changes in the waters occupied by these species may result in their extinction, designation of critical habitat is essential for their conservation. The physical and biological features of these habitats are such as to require special management considerations and protection.

Section 4(b)(4) of the Act requires the Service to consider economic and other impacts of specifying a particular area as critical habitat. The Service has prepared a draft impact analysis and believes at this time that economic and other impacts of this action are insignificant in the foreseeable future. The Service is notifying Federal agencies that may have jurisdiction over the lands and waters under consideration of this proposed action. These Federal agencies and other interested persons or organizations are requested to submit information on economic or other impacts of this proposed action (see below).

The Service will prepare a final impact analysis prior to the time of final rulemaking, and will use this document as the basis for its decision as to whether or not to exclude any area from Critical Habitat for any of the three species.

Effect of This Proposal if Published as a Final Rule

Section 7(a) of the Act provides:

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act. Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded or carried out by such agency (Hereinafter in this section referred to as 'agency action') does not jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee pursuant to subsection (h) of the section 7 of the Endangered Species Act Amendments of 1978.

Provisions for Interagency Cooperation are codified at 50 CFR Part 402. If published as a final rule this proposal would require Federal agencies not only to insure that activities they

authorize, fund, or carry out, do not jeopardize the continued existence of the three species, but also to insure that their actions do not result in the destruction or adverse modification of these Critical Habitats which have been determined by the Secretary to be critical.

Section 4(f)(c) of the Act requires, to the maximum extent practicable, that any proposal to determine Critical Habitat be accompanied by a brief description and evaluation of those activities which, in the opinion of the Director, may adversely modify such habitat if undertaken, or may be impacted by such designation. Such activities are identified below for each species.

Pygmy sculpin

1. Any action which would result in the destruction or significant reduction of aquatic vegetation within the Critical Habitat could adversely modify Critical Habitat since the pygmy sculpin requires aquatic vegetation for cover and for production of food organisms. Any action which would significantly pollute the waters of the Critical Habitat could also have this effect.

2. Removal of water from Coldwater Spring so that water no longer flows over the low dam at the south end of the spring pool could adversely modify Critical Habitat since this action would result in crowding and possible stranding of sculpins in water too shallow for their survival.

Spring Pygmy Sunfish

1. Any alteration of the spring and spring run which would eliminate or significantly reduce the aquatic and riparian vegetation could adversely modify Critical Habitat since aquatic vegetation serves as shelter for the

spring pygmy sunfish and is important as a primary producer in the food chain of that species and riparian vegetation is important in stabilizing the spring and stream bank and reducing siltation from adjacent areas. The loss of riparian vegetation appears to have contributed to the loss of the Pryor Spring population of the spring pygmy sunfish.

2. Physical alteration, such as channelization and dredging of Beaverdam Spring could adversely modify Critical Habitat since temperature and chemical changes and the siltation associated with physical alterations would likely modify the habitat in such a manner as to exceed the tolerance of the species.

3. Toxic chemicals such as pesticides and herbicides if applied directly to the spring or in the area near the spring could in sufficient quantities adversely modify Critical Habitat.

Barrens Topminnow

1. Physical alteration of the stream habitat, such as channelization, dredging, or the construction of impoundments, could adversely modify Critical Habitat since the evidence suggests that local populations of this species in Coffee County Tennessee appear to have been extirpated due to physical alteration of their habitat.

2. The pumping or diversion of water in headwater springs which significantly lowers the water level could adversely modify Critical Habitat.

Public Meetings

The Service hereby announces that a series of public meetings will be held on this proposed rule. The public is invited to attend these meetings and to present opinions and information on the proposal. Specific information relating to each public meeting is set out below:

Place	Date	Time	Subject
1. Holiday Inn, Oxford Room, Oxford, Ala. 36203.	Tues., Aug. 28, 1979	1 to 5 p.m.	Pygmy sculpin.
2. Welcome Inn, Highway 31 South, Athens, Ala. 35611.	Wed., Aug. 29, 1979	1 to 5 p.m.	Spring-pygmy sunfish.
3. Duck River Electric Corp. Building, The Conference Room, 113 East Fort Street, Manchester, Tenn. 37355.	Thurs., Aug. 30, 1979	1 to 5 p.m.	Barrens topminnow.

Public Comments Solicited

The Director intends that the rules finally adopted be as accurate and effective as possible in the conservation of the pygmy sculpin, spring pygmy sunfish and the Barrens topminnow.

Therefore, any comments or suggestions from the public, concerned governmental agencies, the scientific community, industry, private interests or any other interested party concerning any aspect of this proposed rule are

solicited. The Service particularly requests comments on the following:

- 1) Biological and other relevant data concerning any threat (or lack thereof) to these species;
- 2) Additional information concerning the range and distribution of the species;
- 3) Current or planned activities in the subject area;
- 4) The probable impacts of such activities if the areas are designated as critical habitat; and
- 5) The foreseeable economic and other impacts of the critical habitat designation.

National Environmental Policy Act

A draft environmental assessment has been prepared and is on file in the Service's Washington Office of Endangered Species. The assessment will be the basis for a decision as to whether that this determination is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary author of this rule is Dr. James D. Williams, Office of Endangered Species, U.S. Fish & Wildlife Service, Washington, D.C. 20240.

Note.—The Department of the Interior has determined that this is not a significant rule and does not require preparation of a regulatory analysis under Executive Act 12044 and 43 CFR Part 14.

Regulations Promulgation

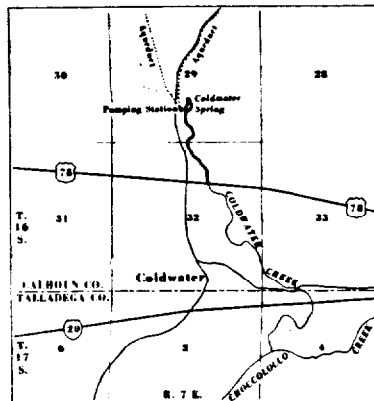
Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. It is proposed that § 17.95(e), Fishes, be amended by adding Critical Habitat of the pygmy sculpin after that of the snail darter as follows:

Pygmy Sculpin

(*Cottus pygmaeus*)

Alabama, Calhoun County, Coldwater Spring and run in the south ½ of Section 29 (Township 16 South, Range 7 East). Coldwater Creek from the junction of Coldwater Spring run downstream to U.S. Highway 78 crossing in the north ½ of Section 32 (Township 16 South, Range 7 East).

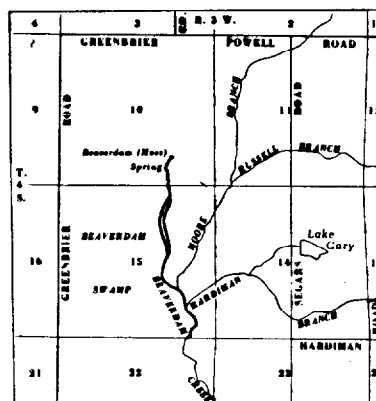


2. § 17.95(e), Fishes, is further proposed to be amended by adding Critical Habitat of the spring pygmy sunfish after that of the Alabama cavefish as follows:

Spring Pygmy Sunfish

(*Elasmoma* sp.)

Alabama, Limestone County, Beaverdam (Moss) Spring and run from its origin in the southeast ¼ of Section 10 (Township 4 South, Range 3 West) downstream through Section 15 (Township 4 South, Range 3 West) the the boundary line between Section 15 and 22.

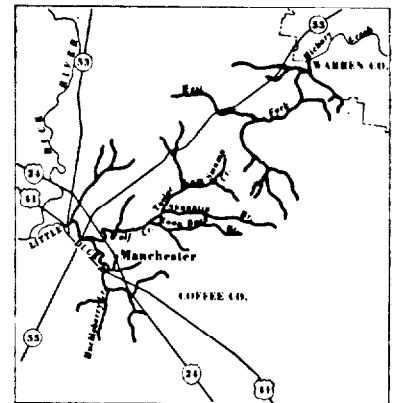


3. § 17.95(e), Fishes, is proposed to be further amended by adding Critical Habitat of the Barrens topminnow after that of the spotfin chub as follows:

Barrens Topminnow

(*Fundulus* sp.)

Tennessee, Coffee County, Little Duck River and tributaries upstream from U.S. Highway 41 crossing at Manchester. West Fork Hickory Creek and tributaries upstream from the Coffee-Warren County Line, Coffee County, Tennessee.



Dated: July 19, 1979.

Lynn A. Greenwalt,
Director, Fish and Wildlife Service.

[FR Doc. 79-23096 Filed 7-26-79; 8:45 am]

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